

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	No .06-9028-MC-RED
	)	
RICHARD C. ROBERTSON,	)	
	)	
Defendant.	)	

**REPORT AND RECOMMENDATION**

The United States filed a Petition to Enforce Internal Revenue Service Summonses. Filed with the Petition are Declarations by Walt Staton, Revenue Officer. Thereafter, a Show Cause Order was entered. On October 12, 2006, the taxpayer appeared personally for a show cause hearing, and the United States was represented by Earl Brown, Assistant United States Attorney.

United States v. Powell, 379 U.S. 48, 57-58 (1964), established the elements of the prima facie case that the government must present in seeking enforcement of a Revenue Service Summons. It must show 1) that the investigation will be conducted pursuant to a legitimate purpose; 2) that the inquiry may be relevant to the purpose; 3) that the information sought is not already within the Commissioner's possession, and 4) that the administrative steps required by the Code have been followed—in particular, that the "Secretary or his delegate," after investigation, has determined the further examination to be necessary and has notified the taxpayer in writing to that effect. The Declarations of Revenue Officer Staton established that the investigation of this taxpayer is for the purpose of determining his tax liability for the years ending December 31, 1990, 1991, 1992, 1993, 1994 and 2000, 2001, 2002, 2003, 2004, and 2005. The records sought from the taxpayer are clearly relevant to this determination.

Because the prima facie case has been established, and because the taxpayer has done nothing to disprove a valid civil purpose for the investigation and summons, United States v. LaSalle National Bank, 437 U. S. 298, (1978), it is

RECOMMENDED that the Petition to Enforce Internal Revenue Service Summons be granted, and that the taxpayer be directed to appear before the United States District Judge to whom this matter is assigned on November 20, 2006, at 2:00 p.m., and produce all records required by the summons or, in the alternative, show cause why he should not be held in contempt.

/s/ James C. England

**JAMES C. ENGLAND, CHIEF  
UNITED STATES MAGISTRATE JUDGE**

Date: October 18, 2006